

HOUSE JOURNAL

SEVENTY-SEVENTH LEGISLATURE, REGULAR SESSION

PROCEEDINGS

FORTY-NINTH DAY — THURSDAY, APRIL 5, 2001

The house met at 11:50 a.m. and was called to order by the speaker pro tempore.

The roll of the house was called and a quorum was announced present (Record 113).

Present — Alexander; Allen; Averitt; Bailey; Berman; Bonnen; Bosse; Brimer; Brown, B.; Brown, F.; Burnam; Callegari; Capelo; Chavez; Chisum; Christian; Clark; Coleman; Cook; Corte; Counts; Crabb; Craddick; Crownover; Danburg; Davis, J.; Davis, Y.; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Ellis; Farabee; Farrar; Flores; Gallego; Garcia; George; Geren; Giddings; Glaze; Goodman; Goolsby; Gray; Green; Grusendorf; Gutierrez; Haggerty; Hamric; Hardcastle; Hartnett; Hawley; Heflin; Hilderbran; Hill; Hinojosa; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hunter; Hupp; Isett; Janek; Jones, D.; Jones, E.; Jones, J.; Keel; Keffer; King, P.; King, T.; Kitchen; Kolkhorst; Krusee; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Martinez Fischer; Maxey; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Najera; Nixon; Noriega; Olivo; Pickett; Pitts; Puente; Rangel; Raymond; Reyna, A.; Reyna, E.; Ritter; Sadler; Salinas; Seaman; Shields; Smith; Solis; Solomons; Swinford; Telford; Thompson; Tillery; Truitt; Turner, B.; Turner, S.; Uher; Uresti; Villarreal; Walker; West; Williams; Wilson; Wise; Wohlgenuth; Wolens; Woolley; Yarbrough; Zbranek.

Absent, Excused — Mr. Speaker; Carter; Hilbert; Junell; Oliveira; Ramsay; Smithee; Talton.

LEAVES OF ABSENCE GRANTED

On motion of Representative Y. Davis and by unanimous consent, all members who were granted leaves of absence on the previous legislative day were granted leaves for this legislative day.

RULES SUSPENDED

Representative Y. Davis moved to suspend all necessary rules in order to take up and consider at this time, on third reading and final passage, the bills on the local, consent, and resolutions calendar which were considered on the previous legislative day.

The motion prevailed without objection.

MOTION FOR ONE RECORD VOTE

On motion of Representative Y. Davis and by unanimous consent, the house agreed to use the first record vote taken for all those bills on the local, consent, and resolutions calendar that require a record vote on third reading and final passage, with the understanding that a member may record an individual vote on any bill with the journal clerk.

INTRODUCTION OF GUEST

The chair recognized Representative Chisum, who introduced the Honorable Wilford Pierre, state representative of the Louisiana Legislature. Representative Pierre briefly addressed the house.

**LOCAL, CONSENT, AND RESOLUTIONS CALENDAR
THIRD READING**

The following bills which were considered on second reading on the previous legislative day on the local, consent, and resolutions calendar were laid before the house, read third time, and passed by a voice vote (members registering votes are shown following bill number):

HB 489

HB 501

HB 666

HB 689 (Craddick and Heflin - no)

HB 834

HB 842

HB 898

HB 1022

HB 1364

HB 1393

HB 1466

HB 1476

HB 1478

HB 1881

HB 1927

HB 1979

HB 2158

HB 2275

HB 2304

HB 2314

HB 2381

HB 2584

HB 3068 (Alexander - no)

HB 3317

HB 3318

The following bills which were considered on second reading on the previous legislative day on the local, consent, and resolutions calendar were laid before the house, read third time, and passed by (Record 114): 141 Yeas, 0 Nays, 1 Present, not voting (members registering votes and the results of the vote are shown following bill number).

Yeas — Alexander; Allen; Averitt; Bailey; Berman; Bonnen; Bosse; Brimer; Brown, B.; Brown, F.; Burnam; Callegari; Capelo; Chavez; Chisum; Christian; Clark; Coleman; Cook; Corte; Counts; Crabb; Craddick; Crownover; Danburg; Davis, J.; Davis, Y.; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Ellis; Farabee; Farrar; Flores; Gallego; Garcia; George; Geren; Giddings; Glaze; Goodman; Goolsby; Gray; Green; Grusendorf; Gutierrez; Haggerty; Hamric; Hardcastle; Hartnett; Hawley; Heflin; Hilderbran; Hill; Hinojosa; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hunter; Hupp; Isett; Janek; Jones, D.; Jones, E.; Jones, J.; Keel; Keffer; King, P.; King, T.; Kitchen; Kolkhorst; Krusee; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Martinez Fischer; Maxey; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Najera; Nixon; Noriega; Olivo; Pickett; Pitts; Puente; Rangel; Raymond; Reyna, A.; Reyna, E.; Ritter; Sadler; Salinas; Seaman; Shields; Smith; Solis; Solomons; Swinford; Telford; Thompson; Tillery; Truitt; Turner, B.; Turner, S.; Uresti; Villarreal; Walker; West; Williams; Wilson; Wise; Wohlgemuth; Wolens; Woolley; Yarbrough; Zbranek.

Present, not voting — Uher(C).

Absent, Excused — Mr. Speaker; Carter; Hilbert; Junell; Oliveira; Ramsay; Smithee; Talton.

HB 108

HB 467

HB 551

HB 617 (Clark - no)(140-1-1)

HB 858

HB 923

HB 1449

HB 1469

HB 1543

HB 1863

HB 2002

HB 2218 (Clark - No)(140-1-1)

HB 2297

HB 2299

HB 2354

HB 2428

HB 2610

HB 2621

HB 2913

REGULAR ORDER OF BUSINESS SUSPENDED

On motion of Representative Hope and by unanimous consent, the reading and referral of bills was postponed until just prior to adjournment.

HB 3672 - PERMISSION TO INTRODUCE

Representative Hope requested permission to introduce and have placed on first reading **HB 3672**.

A record vote was requested.

Permission to introduce was granted by (Record 115): 139 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Alexander; Allen; Averitt; Bailey; Berman; Bonnen; Bosse; Brimer; Brown, B.; Brown, F.; Burnam; Callegari; Capelo; Chavez; Chisum; Christian; Clark; Coleman; Cook; Corte; Counts; Crabb; Craddock; Crownover; Danburg; Davis, J.; Davis, Y.; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Ellis; Farabee; Farrar; Flores; Gallego; Garcia; George; Geren; Giddings; Glaze; Goodman; Goolsby; Gray; Green; Grusendorf; Gutierrez; Haggerty; Hamric; Hardcastle; Hartnett; Hawley; Heflin; Hilderbran; Hill; Hinojosa; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hunter; Hupp; Isett; Janek; Jones, D.; Jones, E.; Jones, J.; Keel; Keffer; King, P.; King, T.; Kitchen; Kolkhorst; Krusee; Kuempel; Lewis, G.; Lewis, R.; Luna; Madden; Marchant; Martinez Fischer; Maxey; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Najera; Nixon; Olivo; Pickett; Pitts; Puente; Rangel; Raymond; Reyna, A.; Reyna, E.; Ritter; Sadler; Salinas; Seaman; Shields; Smith; Solis; Solomons; Swinford; Telford; Thompson; Tillery; Truitt; Turner, B.; Turner, S.; Uresti; Villarreal; Walker; West; Williams; Wilson; Wise; Wohlgemuth; Wolens; Woolley; Yarbrough; Zbranek.

Present, not voting — Uher(C).

Absent, Excused — Mr. Speaker; Carter; Hilbert; Junell; Oliveira; Ramsay; Smithee; Talton.

Absent — Longoria; Noriega.

STATEMENT OF VOTE

When Record No. 115 was taken, I was in the house but away from my desk. I would have voted yes.

Longoria

HB 3673 - PERMISSION TO INTRODUCE

Representative Swinford requested permission to introduce and have placed on first reading **HB 3673**.

A record vote was requested.

Permission to introduce was granted by (Record 116): 139 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Alexander; Allen; Averitt; Bailey; Berman; Bonnen; Bosse; Brimer; Brown, B.; Brown, F.; Burnam; Callegari; Capelo; Chavez; Chisum; Christian; Clark; Coleman; Cook; Corte; Counts; Crabb; Craddick; Crownover; Danburg; Davis, Y.; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Ellis; Farabee; Farrar; Flores; Gallego; Garcia; George; Geren; Giddings; Glaze; Goodman; Goolsby; Gray; Green; Grusendorf; Gutierrez; Haggerty; Hamric; Hardcastle; Hartnett; Hawley; Heflin; Hilderbran; Hill; Hinojosa; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hunter; Hupp; Isett; Janek; Jones, D.; Jones, E.; Jones, J.; Keel; Keffer; King, P.; King, T.; Kitchen; Kolkhorst; Krusee; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Martinez Fischer; Maxey; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Najera; Nixon; Noriega; Olivo; Pickett; Pitts; Puente; Rangel; Raymond; Reyna, A.; Reyna, E.; Ritter; Sadler; Salinas; Seaman; Smith; Solis; Solomons; Swinford; Telford; Thompson; Tillery; Truitt; Turner, B.; Turner, S.; Uresti; Villarreal; Walker; West; Wohlgemuth; Ramsay; Smithee; Talton.

Absent — Davis, J.; Shields.

STATEMENT OF VOTE

When Record No. 116 was taken, I was in the house but away from my desk. I would have voted yes.

Shields

GENERAL STATE CALENDAR SENATE BILLS THIRD READING

The following bills were laid before the house and read third time:

SB 848 ON THIRD READING (Junell - House Sponsor)

SB 848, A bill to be entitled An Act relating to crediting interest to a suspense account of the comptroller and transferring accumulated interest from the account.

A record vote was requested.

SB 848 was passed by (Record 117): 141 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Alexander; Allen; Averitt; Bailey; Berman; Bonnen; Bosse; Brimer; Brown, B.; Brown, F.; Burnam; Callegari; Capelo; Chavez; Chisum; Christian; Clark; Coleman; Cook; Corte; Counts; Crabb; Craddick; Crownover; Danburg; Davis, J.; Davis, Y.; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Ellis; Farabee; Farrar; Flores; Gallego; Garcia; George; Geren; Giddings; Glaze; Goodman; Goolsby; Gray; Green; Grusendorf;

Gutierrez; Haggerty; Hamric; Hardcastle; Hartnett; Hawley; Heflin; Hilderbran; Hill; Hinojosa; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hunter; Hupp; Isett; Janek; Jones, D.; Jones, E.; Jones, J.; Keel; Keffer; King, P.; King, T.; Kitchen; Kolkhorst; Krusee; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Martinez Fischer; Maxey; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Najera; Nixon; Noriega; Olivo; Pickett; Pitts; Puente; Rangel; Raymond; Reyna, A.; Reyna, E.; Ritter; Sadler; Salinas; Seaman; Shields; Smith; Solis; Solomons; Swinford; Telford; Thompson; Tillery; Truitt; Turner, B.; Turner, S.; Uresti; Villarreal; Walker; West; Williams; Wilson; Wise; Wohlgemuth; Wolens; Woolley; Yarbrough; Zbranek.

Present, not voting — Uher(C).

Absent, Excused — Mr. Speaker; Carter; Hilbert; Junell; Oliveira; Ramsay; Smithee; Talton.

SB 417 ON THIRD READING
(Bosse - House Sponsor)

SB 417, A bill to be entitled An Act relating to the creation, powers, and boundaries of certain municipal development districts.

A record vote was requested.

SB 417 was passed by (Record 118): 139 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Alexander; Allen; Bailey; Berman; Bonnen; Bosse; Brimer; Brown, B.; Brown, F.; Burnam; Callegari; Capelo; Chavez; Chisum; Christian; Clark; Coleman; Cook; Corte; Counts; Crabb; Craddick; Crownover; Danburg; Davis, J.; Davis, Y.; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Ellis; Farabee; Farrar; Flores; Gallego; Garcia; George; Geren; Giddings; Glaze; Goodman; Goolsby; Gray; Green; Grusendorf; Gutierrez; Haggerty; Hamric; Hardcastle; Hartnett; Hawley; Heflin; Hilderbran; Hill; Hinojosa; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hunter; Hupp; Isett; Janek; Jones, E.; Jones, J.; Keel; Keffer; King, P.; King, T.; Kitchen; Kolkhorst; Krusee; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Martinez Fischer; Maxey; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Najera; Nixon; Noriega; Olivo; Pickett; Pitts; Puente; Rangel; Raymond; Reyna, A.; Reyna, E.; Ritter; Sadler; Salinas; Seaman; Shields; Smith; Solis; Solomons; Swinford; Telford; Thompson; Tillery; Truitt; Turner, B.; Turner, S.; Uresti; Villarreal; Walker; West; Williams; Wilson; Wise; Wohlgemuth; Wolens; Woolley; Yarbrough; Zbranek.

Present, not voting — Uher(C).

Absent, Excused — Mr. Speaker; Carter; Hilbert; Junell; Oliveira; Ramsay; Smithee; Talton.

Absent — Averitt; Jones, D.

**EMERGENCY CALENDAR
HOUSE BILLS
THIRD READING**

The following bill was laid before the house and read third time:

**HB 1333 ON THIRD READING
(by Junell)**

HB 1333, A bill to be entitled An Act relating to making emergency appropriations.

A record vote was requested.

HB 1333 was passed by (Record 119): 139 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Alexander; Allen; Averitt; Bailey; Berman; Bonnen; Bosse; Brimer; Brown, B.; Brown, F.; Burnam; Callegari; Capelo; Chavez; Chisum; Christian; Clark; Coleman; Cook; Corte; Counts; Crabb; Craddick; Crownover; Danburg; Davis, J.; Davis, Y.; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Ellis; Farabee; Farrar; Flores; Gallego; Garcia; George; Geren; Giddings; Glaze; Goodman; Gray; Green; Grusendorf; Gutierrez; Haggerty; Hamric; Hardcastle; Hartnett; Hawley; Heflin; Hilderbran; Hill; Hinojosa; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hunter; Hupp; Isett; Janek; Jones, D.; Jones, E.; Jones, J.; Keel; Keffer; King, P.; King, T.; Kitchen; Kolkhorst; Krusee; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Najera; Nixon; Noriega; Olivo; Pickett; Pitts; Puente; Rangel; Raymond; Reyna, A.; Reyna, E.; Ritter; Sadler; Salinas; Seaman; Shields; Smith; Solis; Solomons; Swinford; Telford; Thompson; Tillery; Truitt; Turner, B.; Turner, S.; Uresti; Villarreal; Walker; West; Williams; Wilson; Wise; Wohlgemuth; Wolens; Woolley; Yarbrough; Zbranek.

Present, not voting — Uher(C).

Absent, Excused — Mr. Speaker; Carter; Hilbert; Junell; Oliveira; Ramsay; Smithee; Talton.

Absent — Goolsby; Maxey.

The chair stated that **HB 1333** was passed subject to the provisions of Article III, Section 49a, of the Texas Constitution.

**GENERAL STATE CALENDAR
HOUSE BILLS
THIRD READING**

The following bills were laid before the house and read third time:

**HB 2255 ON THIRD READING
(by McCall, Tillery, Bosse, Chisum, and Gallego)**

HB 2255, A bill to be entitled An Act relating to the continuation and functions of the State Securities Board; providing penalties.

HB 2255 was passed.

HB 472 ON THIRD READING
(by Solomons, Danburg, Woolley, et al.)

HB 472, A bill to be entitled An Act relating to the regulation of telemarketing solicitation; providing penalties.

A record vote was requested.

HB 472 was passed by (Record 120): 137 Yeas, 3 Nays, 1 Present, not voting.

Yeas — Alexander; Allen; Averitt; Bailey; Berman; Bonnen; Bosse; Brimer; Brown, B.; Brown, F.; Burnam; Callegari; Capelo; Chavez; Chisum; Christian; Clark; Coleman; Cook; Counts; Crabb; Craddick; Crownover; Danburg; Davis, Y.; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Ellis; Farabee; Farrar; Flores; Gallego; Garcia; George; Geren; Giddings; Glaze; Goodman; Goolsby; Gray; Green; Grusendorf; Gutierrez; Haggerty; Hamric; Hardcastle; Hartnett; Hawley; Heflin; Hilderbran; Hill; Hinojosa; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hunter; Hupp; Isett; Janek; Jones, D.; Jones, E.; Jones, J.; Keel; Keffer; King, P.; King, T.; Kitchen; Kolkhorst; Kruse; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Martinez Fischer; Maxey; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Najera; Nixon; Noriega; Olivo; Pickett; Pitts; Puente; Rangel; Raymond; Reyna, A.; Reyna, E.; Sadler; Salinas; Seaman; Smith; Solis; Solomons; Swinford; Telford; Thompson; Tillery; Truitt; Turner, B.; Turner, S.; Uresti; Villarreal; Walker; West; Williams; Wilson; Wise; Wohlgemuth; Wolens; Woolley; Yarbrough; Zbranek.

Nays — Corte; Davis, J.; Shields.

Present, not voting — Uher(C).

Absent, Excused — Mr. Speaker; Carter; Hilbert; Junell; Oliveira; Ramsay; Smithee; Talton.

Absent — Ritter.

HB 6 ON THIRD READING
(by Dunnam, Smith, Olivo, Hardcastle, Dutton, et al.)

HB 6, A bill to be entitled An Act relating to open-enrollment charter schools.

HB 6 was passed.

HB 1460 ON THIRD READING
(by Williams)

HB 1460, A bill to be entitled An Act relating to use of certain terms by cemeteries.

HB 1460 was passed.

HB 1573 ON THIRD READING
(by Thompson)

HB 1573, A bill to be entitled An Act relating to the establishment of a retirement system for officers and employees of certain municipalities and of

the retirement system and the transfer of credit from one retirement system to the established system.

A record vote was requested.

HB 1573 was passed by (Record 121): 139 Yeas, 1 Nays, 1 Present, not voting.

Yeas — Alexander; Allen; Averitt; Bailey; Berman; Bonnen; Bosse; Brimer; Brown, B.; Brown, F.; Burnam; Callegari; Capelo; Chavez; Chisum; Christian; Clark; Coleman; Cook; Corte; Counts; Crabb; Craddick; Crownover; Danburg; Davis, J.; Davis, Y.; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Ellis; Farabee; Farrar; Flores; Gallego; Garcia; George; Geren; Giddings; Glaze; Goodman; Goolsby; Gray; Green; Grusendorf; Gutierrez; Haggerty; Hamric; Hardcastle; Hartnett; Hawley; Heflin; Hilderbran; Hill; Hinojosa; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hunter; Hupp; Isett; Janek; Jones, D.; Jones, E.; Keel; Keffer; King, P.; King, T.; Kitchen; Kolkhorst; Krusee; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Martinez Fischer; Maxey; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Najera; Noriega; Olivo; Pickett; Pitts; Puente; Rangel; Raymond; Reyna, A.; Reyna, E.; Ritter; Sadler; Salinas; Seaman; Shields; Smith; Solis; Solomons; Swinford; Telford; Thompson; Tillery; Truitt; Turner, B.; Turner, S.; Uresti; Villarreal; Walker; West; Williams; Wilson; Wise; Wohlgemuth; Wolens; Woolley; Yarbrough; Zbranek.

Nay — Nixon.

Present, not voting — Uher(C).

Absent, Excused — Mr. Speaker; Carter; Hilbert; Junell; Oliveira; Ramsay; Smithee; Talton.

Absent — Jones, J.

HB 1975 ON THIRD READING
(by Hunter)

HB 1975, A bill to be entitled An Act relating to certain cemeteries operated by a nonprofit cemetery corporation.

HB 1975 was passed.

HB 3097 ON THIRD READING
(by Counts)

HB 3097, A bill to be entitled An Act relating to the security provided for revenue bonds issued by the Veterans' Land Board.

HB 3097 was passed.

HB 2771 ON THIRD READING
(by Flores)

HB 2771, A bill to be entitled An Act relating to certain surcharges imposed by the Texas Alcoholic Beverage Commission.

HB 2771 was passed.

HB 2220 ON THIRD READING**(by Martinez Fischer)**

HB 2220, A bill to be entitled An Act relating to the authorized use of an unmarked vehicle by a municipal employee to conduct a fraud investigation.

HB 2220 was passed.

HB 772 ON THIRD READING**(by Haggerty and Allen)**

HB 772, A bill to be entitled An Act relating to the eligibility of certain offenders for medically recommended intensive supervision and the provision of facilities for those offenders.

HB 772 was passed.

HB 84 ON THIRD READING**(by Gallego)**

HB 84, A bill to be entitled An Act relating to the offense of the unlawful possession of metal or body armor by a felon.

HB 84 was passed.

HB 1365 ON THIRD READING**(by Goodman, et al.)**

HB 1365, A bill to be entitled An Act relating to the establishment, modification, and enforcement of child support.

Amendment No. 1

Representative Goodman offered the following amendment to **HB 1365**:

Amend **HB 1365** as follows:

(1) add the following new sections to read as follows and renumber subsequent sections accordingly:

SECTION __. Title 5, Finance Code, is amended by adding Chapter 396 to read as follows:

CHAPTER 396. PRIVATE CHILD SUPPORT ENFORCEMENT AGENCIES**SUBCHAPTER A. GENERAL PROVISIONS**

Sec. 396.001. DEFINITIONS. In this chapter:

(1) "Child support enforcement" means an action, conduct, or practice in enforcing, or in soliciting for enforcement, a child support obligation, including the collection of an amount owed under a child support obligation.

(2) "Child support obligation" means an obligation for the payment of financial support for a child under an order or writ issued by a court or other tribunal.

(3) "Department" means the Banking Department of Texas.

(4) "Foreign agency" means a private child support enforcement agency that engages in business in this state solely by use of telephone, mail, the Internet, facsimile transmission, or any other means of interstate communication.

(5) "Obligee" means the person identified in an order for child support

issued by a court or other tribunal as the payee to whom an obligor's amounts of ordered child support are due.

(6) "Obligor" means the person identified in an order for child support issued by a court or other tribunal as the individual required to make payment under the terms of a support order for a child.

(7) "Private child support enforcement agency" means an individual or nongovernmental entity who engages in the enforcement of child support ordered by a court or other tribunal for a fee or other consideration. The term does not include:

(A) an attorney enforcing a child support obligation on behalf of, and in the name of, a client unless the attorney has an employee who is not an attorney and who on behalf of the attorney:

(i) regularly solicits for child support enforcement; or

(ii) regularly contacts child support obligees or obligors for the purpose of child support enforcement;

(B) a state agency designated to serve as the state's Title IV-D agency in accordance with Part D, Subchapter IV, Social Security Act (42 U.S.C. Section 651 et seq.), as amended; or

(C) a contractor awarded a contract to engage in child support enforcement on behalf of a governmental agency, including a contractor awarded a contract:

(i) under Chapter 236, Family Code; or

(ii) by a political subdivision of this or another state that is authorized by law to enforce a child support obligation.

(8) "Registered agency" means a private child support agency, including a foreign agency, that is registered under this chapter.

[Sections 396.002-396.050 reserved for expansion]

SUBCHAPTER B. POWERS AND DUTIES OF DEPARTMENT

Sec. 396.051. ADMINISTRATIVE AND RULEMAKING AUTHORITY.

(a) The Department shall administer this chapter.

(b) The Finance Commission of Texas shall adopt rules as necessary for the administration of this chapter.

Sec. 396.052. FILING FEE. (a) The Department shall charge each applicant for a certificate of registration, or renewal of a certificate, a nonrefundable fee of \$500 for each certificate.

(b) The application fee is due on the date the applicant submits an application for registration. The renewal fee is due on the date that a certificate holder submits an application to renew a registration.

Sec. 396.053. COST OF REGULATION. The Department may charge each registered private child support enforcement agency an annual fee not to exceed \$500 to cover the cost of enforcing this chapter.

[Sections 396.054-396.100 reserved for expansion]

SUBCHAPTER C. REGISTRATION

Sec. 396.101. REGISTRATION REQUIRED. Except as otherwise provided by this chapter, a private child support enforcement agency must register with the Department to engage in child support enforcement in this state.

Sec. 396.102. RECOGNITION OF AUTHORIZATION ISSUED BY

ANOTHER STATE. (a) The Department may waive any prerequisite to obtaining a registration for a foreign agency:

(1) after reviewing the applicant's credentials and determining that the applicant holds a valid registration or other authorization from another state whose requirements are substantially equivalent to those imposed under this chapter; or

(2) after determining the applicant has a valid registration or other authorization from another state with which this state has a reciprocity agreement.

(b) The Department may enter into an agreement with another state to permit registration by reciprocity.

Sec. 396.103. APPLICATION REQUIREMENTS. (a) An applicant for registration as a private child support enforcement agency must file with the Department an application on a form and in the manner prescribed by the Department.

(b) The application must state:

(1) the name of the applicant;

(2) the name under which the applicant is doing or intends to do business in this state, if different from the applicant's name;

(3) the address of the applicant's principal business office, including the state, municipality, and numeric street address; and

(4) any Internet or other electronic mail address and business telephone number of the applicant.

(c) The chief executive officer of the applicant agency shall state in a notarized statement that the application is accurate and truthful in all respects.

Sec. 396.104. FINANCIAL AND OTHER DISCLOSURES. The Department may require an applicant for registration or renewal of registration as a private child support enforcement agency to provide:

(1) a certified financial statement demonstrating the financial solvency of the agency for which registration or renewal of registration is sought; and

(2) any other information the Department may reasonably require the applicant to provide to establish that the requirements and qualifications for registration or renewal of registration have been fulfilled by the applicant.

Sec. 396.105. SURETY BOND OR OTHER DEPOSIT REQUIRED. (a) An application for registration must be accompanied by a surety bond approved by the Department.

(b) The surety bond must be:

(1) issued by a surety authorized to do business in this state;

(2) in the amount of \$50,000;

(3) in favor of the state for the benefit of a person damaged by a violation of this chapter; and

(4) conditioned on the private child support enforcement's agency compliance with this chapter and the faithful performance of the obligations under the agency's agreements with its clients.

(c) The surety bond must be filed with and held by the Department.

(d) Instead of a surety bond, the Department may accept a deposit of money in an amount determined by the Department not to exceed \$50,000. The Department shall deposit any amounts received under this subsection in an insured depository account designated for that purpose.

Sec. 396.106. ISSUANCE OF CERTIFICATE OF REGISTRATION. (a) The Department shall issue a certificate of registration and mail the certificate to the applicant on receipt of:

- (1) a completed application;
- (2) evidence of financial solvency;
- (3) the surety bond or deposit of money required by Section 396.105;

and

- (4) the required registration fee.

(b) If a single application is used to register more than one registered location, the Department shall:

- (1) issue a certificate of registration for each registered location; and
- (2) mail all of the certificates to the principal business location stated in the application.

Sec. 396.107. DUTY TO UPDATE APPLICATION INFORMATION. A certificate holder shall notify the commission of any material change in the information provided in an application for registration not later than the 60th day after the date on which the information changes.

Sec. 396.108. TERM OF REGISTRATION; RENEWAL. (a) A private child support enforcement agency's certificate of registration expires on the third anniversary of the date of issuance.

(b) A certificate of registration may be renewed for another three-year period as provided by Department rule.

[Sections 396.109-396.150 reserved for expansion]

SUBCHAPTER D. AUTHORITY OF FOREIGN AGENCY TO ENGAGE IN BUSINESS IN THIS STATE

Sec. 396.151. APPLICATION TO OPERATE UNDER OTHER AUTHORIZATION INSTEAD OF REGISTRATION. (a) To engage in business in this state, a foreign agency that is exempt from registration as prescribed by Section 396.102 may file an application with the Department to operate under that authorization by filing:

(1) the information required for an application for registration under Section 396.103;

(2) a surety bond or deposit of money that meets the requirements of Section 396.105 unless the agency provides proof to the satisfaction of the Department that the agency maintains in the state in which that agency has its principal office an adequate bond or similar instrument for purposes similar to the purposes required for the filing of a surety bond under Section 396.105; and

(3) a copy of the license or other authorization issued by the state in which that agency is authorized to operate.

(b) The Department may charge a single administrative fee in a reasonable amount that is sufficient to cover the costs of the Department in processing and acting on the application.

Sec. 396.152. ACCEPTANCE OF OTHER AUTHORIZATION INSTEAD OF REGISTRATION. The Department shall issue a certificate to operate under another state's authorization in this state to a foreign agency that files an application with the Department under Section 396.151 if:

(1) the agency submits all of the information required by Section 396.151(a)(1);

(2) the Department determines that the agency has met the requirements of Section 396.151(a)(2);

(3) the agency remits any required administrative fee under Section 396.151(b); and

(4) the Department verifies that the registration or other authorization issued by another state is active and in good standing.

Sec. 396.153. NOTIFICATION OF UPDATED INFORMATION OR CHANGE IN STATUS OF OTHER AUTHORIZATION. Not later than the 30th day after the date on which the change occurs, a foreign private child support enforcement agency that is issued a certificate to operate in this state under this subchapter shall notify the Department of any change in:

(1) the information provided in an application submitted under Section 396.152; or

(2) the status of the agency's authorization in the other state.

Sec. 396.154. WITHDRAWAL OF APPROVAL TO OPERATE UNDER OTHER AUTHORIZATION. A holder of a certificate issued under this subchapter may not engage in business in this state as a private child support enforcement agency if another state has revoked or withdrawn the person's authority to operate as a private child support enforcement agency in that state unless the Department grants the agency a registration under this chapter.

[Sections 396.155-396.200 reserved for expansion]

SUBCHAPTER E. REQUIRED BUSINESS PRACTICES

Sec. 396.201. REGISTRATION PREREQUISITE TO SUIT. A private child support enforcement agency may not bring an action to enforce a child support obligation in this state unless the agency is registered or otherwise authorized to engage in business in this state as provided by this chapter.

Sec. 396.202. RECORDS. (a) A registered agency shall maintain records of all child support collections made on behalf of, and disbursed to, a client who is an obligee, including:

(1) the name of any obligor who made child support payments collected by the agency;

(2) the amount of support collected by the agency for each client, including:

(A) the date on which the amount was collected; and

(B) the date on which each amount due the client by the obligor was paid to the client;

(3) a copy of the order establishing the child support obligation under which a collection was made by the agency; and

(4) any other pertinent information relating to the child support obligation, including any case, cause, or docket number of the court having jurisdiction over the matter.

(b) The records required under this section must be updated at least monthly and must be maintained by the registered agency for a period of four years from the date of the last support payment collected by the agency on behalf of an obligee.

Sec. 396.203. CONTRACT FOR SERVICES. (a) A registered agency and foreign agency authorized to engage in business under this chapter shall execute a written contract for the enforcement of child support for each client of the agency that is residing in this state.

(b) The contract required under this section must:

- (1) be in writing, dated, and signed by both parties to the contract; and
- (2) specify its terms in clear language.

[Sections 396.204-396.250 reserved for expansion]

SUBCHAPTER F. PROHIBITED PRACTICES

Sec. 396.251. THREATS OR COERCION. (a) In enforcing a child support obligation, a registered agency may not use threats, coercion, or attempts to coerce that employ any of the following practices:

- (1) using or threatening to use violence or other criminal means to cause harm to an obligor or property of the obligor;
- (2) accusing falsely or threatening to accuse falsely an obligor of a violation of state or federal child support laws;
- (3) taking or threatening to take an enforcement action against an obligor that is not authorized by law; or
- (4) intentionally representing to a person that the agency is a governmental agency authorized to enforce a child support obligation.

(b) Subsection (a) does not prevent a registered agency from:

- (1) informing an obligor that the obligor may be subject to penalties prescribed by law for failure to pay a child support obligation; or
- (2) taking, or threatening to take, an action authorized by law for the enforcement of a child support obligation by the agency.

Sec. 396.252. FRAUDULENT, DECEPTIVE, OR MISLEADING REPRESENTATIONS. In enforcing a child support obligation, a registered agency or employee of the agency may not:

- (1) identify the registered agency by any other name other than one by which the agency is registered with the Department;
- (2) falsely represent the nature of the child support enforcement activities in which the agency is authorized by law to engage; or
- (3) falsely represent that an oral or written communication is the communication of an attorney.

[Sections 396.253-396.300 reserved for expansion]

SUBCHAPTER G. ADMINISTRATIVE ENFORCEMENT

Sec. 396.301. REVOCATION OF REGISTRATION. (a) After notice and hearing, the Department may revoke the registration of a registered agency that:

- (1) fails to comply with this chapter or a rule adopted under this chapter;
- (2) does not pay a fee or other charge imposed by the Department under this chapter; and
- (3) fails to maintain and produce at the request of the Department records attesting to the financial solvency of the registered agency or other business records concerning client accounts.

(b) The Department may permit a registered agency to take an appropriate action to correct a failure to comply with this chapter and not revoke the registration of the agency.

Sec. 396.302. ADMINISTRATIVE HEARING ON DENIAL, SUSPENSION, OR REVOCATION OF REGISTRATION. (a) The Department may not deny or suspend the registration of a private child support enforcement agency under this chapter without first conducting an administrative hearing.

(b) A hearing under this section or Section 396.301 is subject to Chapter 2001, Government Code.

Sec. 396.303. BONA FIDE ERROR. A registered agency does not violate this chapter if the action complained of resulted from a bona fide error that occurred notwithstanding the use of reasonable procedures to avoid the error.

Sec. 396.304. ADMINISTRATIVE INVESTIGATION OF COMPLAINT. (a) A person may file with the Department a written complaint against a registered agency for a violation of this chapter.

(b) Not later than the 30th day after the date on which the Department receives a complaint under this section, the Department shall initiate an investigation into the merits of the complaint.

(c) The Department may appoint a hearings officer to conduct the investigation.

(d) A hearings officer appointed by the Department to investigate a complaint may arrange for the services of a qualified mediator and attempt to:

- (1) resolve the complaint and any differences between the parties; and
- (2) reach a settlement, without the requirement of further investigation.

(e) The Department may delegate to a hearings officer appointed to investigate a complaint under this section the authority to dismiss the complaint, after an initial investigation and after notice to each affected party and an opportunity for hearing, for lack of sufficient evidentiary basis.

(f) An individual aggrieved by a decision of the Department or hearings officer under this section may appeal the decision to a district court in Travis County.

(g) The Department shall provide for an annual public inspection of an investigation report of a complaint filed under this section.

[Sections 396.305-396.350 reserved for expansion]

SUBCHAPTER H. CIVIL REMEDIES

Sec. 396.351. CIVIL ACTION. (a) In addition to any other remedy provided by this chapter, a person may bring an action for:

- (1) injunctive relief to enjoin or restrain a violation of this chapter; and
- (2) actual damages incurred as a result of a violation of this chapter.

(b) A person who prevails in an action brought under this section is entitled to recover court costs and reasonable attorney's fees.

(c) On a finding by a court that an action under this section was brought in bad faith or for purposes of harassment, the court shall award the defendant attorney's fees reasonably related to the work performed and costs.

Sec. 396.352. SERVICE OF PROCESS OUTSIDE STATE. (a) A registered agency that is located in another state or a private child support enforcement agency that engages in the business of child support enforcement in this state in violation of this chapter is considered to have submitted to the jurisdiction of the courts of this state with respect to an action brought under this chapter.

(b) A foreign agency engaging in business in this state in violation of this chapter is considered to have appointed the Department as the agency's agent for service of process in any action, suit, or proceeding arising from a violation of this chapter.

Sec. 396.353. REMEDIES UNDER OTHER LAW. (a) A violation of this

chapter is a deceptive trade practice under Subchapter E, Chapter 17, Business & Commerce Code, and is actionable under that subchapter.

(b) This chapter does not affect or alter a remedy at law or in equity otherwise available to an obligor, obligee, governmental entity, or other legal entity.

(2) On Page 42, after Line 5, add a new Subdivision (d) to read as follows:

(d) The requirement of Chapter 396, Finance Code, as added by this Act, that a private child support agency be registered applies only on or after January 1, 2002.

Amendment No. 1 was adopted.

HB 1365, as amended, was passed.

HB 1103 ON THIRD READING **(by Yarbrough)**

HB 1103, A bill to be entitled An Act relating to an action by the Texas Workforce Commission to collect certain debts of an acquired employer from the successor employer.

A record vote was requested.

HB 1103 was passed by (Record 122): 139 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Alexander; Allen; Averitt; Bailey; Berman; Bonnen; Bosse; Brimer; Brown, B.; Brown, F.; Burnam; Callegari; Capelo; Chavez; Chisum; Christian; Clark; Coleman; Cook; Corte; Counts; Crabb; Craddick; Crownover; Danburg; Davis, J.; Davis, Y.; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Ellis; Farabee; Farrar; Gallego; Garcia; George; Geren; Giddings; Glaze; Goodman; Goolsby; Gray; Green; Grusendorf; Gutierrez; Haggerty; Hamric; Hardcastle; Hawley; Heflin; Hilderbran; Hill; Hinojosa; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hunter; Hupp; Isett; Janek; Jones, D.; Jones, E.; Jones, J.; Keel; Keffer; King, P.; King, T.; Kitchen; Kolkhorst; Krusee; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Martinez Fischer; Maxey; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Najera; Nixon; Noriega; Olivo; Pickett; Pitts; Puente; Rangel; Raymond; Reyna, A.; Reyna, E.; Ritter; Sadler; Salinas; Seaman; Shields; Smith; Solis; Solomons; Swinford; Telford; Thompson; Tillery; Truitt; Turner, B.; Turner, S.; Uresti; Villarreal; Walker; West; Williams; Wilson; Wise; Wohlgemuth; Wolens; Woolley; Yarbrough; Zbranek.

Present, not voting — Uher(C).

Absent, Excused — Mr. Speaker; Carter; Hilbert; Junell; Oliveira; Ramsay; Smithee; Talton.

Absent — Flores; Hartnett.

STATEMENT OF VOTE

When Record No. 122 was taken, I was in the house but away from my desk. I would have voted yes.

Flores

HB 1989 ON THIRD READING**(by Hamric)**

HB 1989, A bill to be entitled An Act relating to the authority of a judge of a statutory county court to hear certain alcoholic beverage permit or license applications.

HB 1989 was passed.

HB 1098 ON THIRD READING**(by Bonnen)**

HB 1098, A bill to be entitled An Act relating to the collection of taxes on printed materials distributed by mail.

HB 1098 was passed.

HB 1100 ON THIRD READING**(by R. Lewis)**

HB 1100, A bill to be entitled An Act relating to the presumption that certain vessels and other watercraft are located in this state only temporarily for ad valorem tax purposes.

HB 1100 was passed.

HB 1723 ON THIRD READING**(by Seaman, Keffer, B. Turner, Counts, Ramsay, et al.)**

HB 1723, A bill to be entitled An Act relating to the creation of a county employment development board in certain counties to develop programs for rural economic assistance for career training; authorizing a tax.

HB 1723 was passed.

**BILLS AND JOINT RESOLUTIONS ON FIRST READING
AND REFERRAL TO COMMITTEES
RESOLUTIONS REFERRED TO COMMITTEES**

Bills and joint resolutions were at this time laid before the house, read first time, and referred to committees. Resolutions were at this time laid before the house and referred to committees. (See the addendum to the daily journal, Referred to Committees, List No. 1.)

RULES SUSPENDED

Representative Swinford moved to suspend the 5-day posting rule to allow the Committee on Agriculture and Livestock to consider **HB 3673**.

The motion prevailed without objection.

COMMITTEE MEETING ANNOUNCEMENTS

The following committee meetings were announced:

Agriculture and Livestock, upon adjournment Monday, April 9, E1.014, for a public hearing, to consider **HB 3673**.

Public Safety, upon adjournment today, Desk 141, for a formal meeting.

Criminal Jurisprudence, upon final adjournment today, E2.022, for a formal meeting, to consider pending business.

State Recreational Resources, 30 minutes after adjournment today, E2.010, for a public hearing, to consider posted bills and pending business.

Urban Affairs, Subcommittee on **HB 2290**, upon adjournment today, Desk 79, for a formal meeting, to consider **HB 2290**.

Human Services, upon adjournment today, Desk 63, for a formal meeting, to consider pending business.

Economic Development, upon adjournment today, Desk 124, for a formal meeting, to consider pending business.

ADJOURNMENT

Representative Callegari moved that the house adjourn until 10 a.m. Monday, April 9 in honor of Rodney Young of Katy who is being held on the Chinese Hainan Island.

The motion prevailed without objection.

The house accordingly, at 1:03 p.m., adjourned until 10 a.m. Monday, April 9.

ADDENDUM

REFERRED TO COMMITTEES

The following bills and joint resolutions were today laid before the house, read first time, and referred to committees, and the following resolutions were today laid before the house and referred to committees. If indicated, the chair today corrected the referral of the following measures:

List No. 1

HB 3671 (By Denny), Relating to the creation of municipal courts of record in Trophy Club located in Tarrant and Denton counties.
To Judicial Affairs.

HB 3672 (By Hope), Relating to calling an election for qualified voters to approve any annexation by a municipality of any portion of Chateau Woods Municipal Utility District, Montgomery County, Texas.
To Land & Resource Management.

HB 3673 (By Swinford), Relating to the control of diseases of swine by the Texas Animal Health Commission and the Texas Department of Agriculture.
To Agriculture & Livestock.

HR 697 (By Ramsay), Recognizing the valuable contributions by the educators from the Mount Vernon Independent School District.
To Rules & Resolutions.

HR 698 (By Ramsay), Honoring Max Newton for his dedication to the improvement of telephone service.
To Rules & Resolutions.

HR 699 (By Ellis), Honoring Shannon Marie Clancy for being named Miss Tyler County 2001.

To Rules & Resolutions.

HR 700 (By Cook), In memory of Dr. Raymond R. Thomas of Eagle Lake.

To Rules & Resolutions.

HR 701 (By Carter, et al.), In memory of M. Cordell Hull of Fort Worth.

To Rules & Resolutions.

HR 704 (By Gallego, P. Moreno, Rangel, and Hinojosa), Recognizing the Honorable Reynaldo Garza for his 40 years of service on the federal bench.

To Rules & Resolutions.

HR 705 (By Capelo), Honoring Tom Dobson and Whataburger on 50 years of outstanding service.

To Rules & Resolutions.

HR 706 (By Zbranek), Honoring Judge J. C. Zbranek of Liberty County.

To Rules & Resolutions.

HR 707 (By Dunnam), Granting Professor Janice C. May and her students use of the house chamber on Sunday, April 22, 2001.

To House Administration.

HR 708 (By Howard), Honoring Samantha Brooks of Sugar Land for being named a Distinguished Finalist in the 2001 Prudential Spirit of Community Awards program.

To Rules & Resolutions.

SB 180 to Ways & Means.

SB 249 to Transportation.

SB 324 to Environmental Regulation.

SB 430 to Public Education.

SB 586 to Transportation.

SB 604 to State Affairs.

SB 734 to Pensions & Investments.

SB 888 to Transportation.

SB 889 to Transportation.

SB 974 to Higher Education.

SB 1154 to Transportation.

SB 1194 to State Recreational Resources.

SB 1595 to Higher Education.

APPENDIX

STANDING COMMITTEE REPORTS

Favorable reports have been filed by committees as follows:

April 4

Appropriations - **HB 569, HB 2071**

Business & Industry - **HB 1202, HB 1203**

Corrections - **HB 588, HB 1616, HB 1617, HB 1962, HB 2247**

County Affairs - **HB 2295, HB 2744, HB 2746, HB 3191, HB 3229, HJR 87**

Criminal Jurisprudence - **HB 512, SB 164, SB 219**

Environmental Regulation - **HB 2912**

Human Services - **HB 3210**

Judicial Affairs - **SB 797**

Licensing & Administrative Procedures - **HB 402, HB 1793, HB 2331, HB 3016, SB 484, SB 672**

Public Education - **HB 1475**

State Affairs - **HB 371, SB 304, SB 481**

Urban Affairs - **HB 1113, HB 2972, HB 3349, HB 3450**

Ways & Means - **HB 1392, HB 2413, HB 2601**

ENGROSSED

April 4 - HB 606, HB 642, HB 1241, HB 1287, HB 1351, HB 1619, HB 1641, HB 3544, HJR 1, HJR 82

ENROLLED

April 4 - HCR 230, HCR 231

SENT TO THE GOVERNOR

April 4 - HCR 182, HCR 188